IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 4327 of 2006
To
FIRST APPEAL No. 4350 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SPECIAL LAQ OFFICER - Appellant(s)
Versus
SOMAJI PRATAPJI THAKOR & 1 - Defendant(s)

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Appearance :
MR HEMANG H PARIKH, AGP for Appellant(s) : 1,
None for Defendant(s) : 1 - 2.
MR AJ PATEL for Defendant(s) : 1.2.1,1.2.2

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 16/03/2007

ORAL COMMON JUDGMENT :

Admit. Mr. Jayesh M Patel, learned advocate waives service of notice of admission for the respondents.

At the request of the learned advocates, the matters are taken up for final disposal today itself. Mr. Patel has supplied the paper book containing oral evidence as well as other documents. Hence, there is no need to call for the record and proceedings of the case.

2. These appeals are filed to challenge the judgment and award made by the Extra Assistant Judge, Mehsana dated 15/7/2002 in Land Acquisition Reference No. 2374 of 1996 and its allied reference cases. Since there is a common judgment in all cases, these appeals are also heard together and now they are being disposed of by this common judgment.

3. The Special Land Acquisition Officer, Narmada Yojna, Unit No. 11, Ahmedabad, has filed appeals on the ground that the compensation awarded by the Reference Court is on higher side and it is required to be reduced. The lands in question are situated at village Jaloda, Taluka Kadi, District Mehsana. Since the need to acquire these lands arose to construct canal under Narmada Irrigation Project, notification under section 4 of the Land Acquisition Act, 1894 [hereinafter referred to as 'the Act'] was published on 5/3/1994. The declaration under section 6 was made on 26/7/1994. After complying with necessary procedure, appellant declared the award on

15/10/1995. By the said award, appellant granted compensation @ Rs.2.17 paise per sq.mtr. Since the respondents were not satisfied with the quantum of compensation, they submitted application under section 18 of the Act with a view to make reference to the District Court for enhancement of the compensation. In view of the same, aforesaid reference cases were filed before the District Court. On the basis of the material produced before it, the Reference Court determined the market value and awarded Rs.27.83 paise per sq.mtr., by way of compensation. Thus, the total amount was Rs.30.00 per sq.mtr. Hence, these appeals.

4. I have head Mr. HH Parikh, Ld. AGP for the appellant and Mr. Jayesh M Patel, learned advocate appearing for Mr. AJ Patel for the respondents. Mr. Patel has drawn my attention to Exhs. 17, 18, 29 and 20. First three are the awards of the District Court in respect of land situated at villages Ambaliyara and village Meda Adaraj; whereas Exh. 20 is the judgment of this Court also in respect of village Meda Adaraj delivered in First Appeals No. 4319 to 3272 of 2001. From the same, it appears that the market value of these lands has been determined at Rs.28/- per sq.mtr. The notifications under section 4 (1) of the Act in those cases were issued in the years 1992 and 1993. However, it is fairly conceded by Mr. Jayesh M. Patel that the respondents are ready to accept the compensation @ Rs.28/- per sq.mtr. In other words, the respondents do not have any objection if the compensation is reduced from

Rs.30/- per sq.mtr., to Rs.28/- per sq.mtr. In view of the documentary evidence on record, it appears that no further reduction is possible. Hence, the rate of compensation is reduced from Rs.30/- per sq.mtr., to Rs.28/- per sq.mtr., together with all incidental statutory benefits including interest. Accordingly, the aforesaid awards are modified to the aforesaid extent. These appeals are partly allowed with no order as to costs.

[Akshay H Mehta, J.]

* Pansala.